

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

GILES CHIBUZOR MBONU,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 3:17CV702-HEH
)	
JEFFREY CRAWFORD,)	
)	
Respondent.)	

MEMORANDUM OPINION
(Dismissing as Moot 28 U.S.C. § 2241 Petition)

This matter is before the Court on a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 (“§ 2241 Petition,” ECF No. 5) filed by Giles Chibuzor Mbonu.¹ In his § 2241 Petition, Mbonu seeks release from the custody of the United States Immigration and Customs Enforcement (“ICE”), asserting that his continued detention is unlawful under *Zadydas v. Davis*, 533 U.S. 678 (2001). Respondent has filed a Motion to Dismiss (ECF No. 13). For the reasons stated below, the Court will grant the Motion to Dismiss and dismiss the § 2241 Petition as moot.

I. PROCEDURAL HISTORY

Mbonu is a native and citizen of Nigeria who entered the United States as a Legal Permanent Resident. (Declaration of John D. Killian (“Killian Decl. I”) ¶¶ 7, 29, ECF No. 10-1.) On May 19, 2015, Mbonu was arrested by ICE and held for the duration of his removal proceedings, including many appeals and remands. (*Id.* ¶¶ 11-25.) On

¹ The Court notes that the docket incorrectly reflects Mbonu’s name. The Court corrects his name here to reflect what he placed on the original § 2241 petition filed with the Court. (ECF No. 1, at 1.)

March 26, 2018, an Immigration Judge held a merits hearing and “heard testimony and received evidence as to whether Petitioner was eligible for adjustment of status with a waiver of inadmissibility pursuant to INA § 212(h), 8 U.S.C. § 1182(c) (“212(h) waiver”).” (Declaration of John D. Killian (“Killian Decl. II”) ¶ 6, ECF No. 14–1.) On May 15, 2018, the Department of Homeland Security “received the Immigration Judge’s written decision, dated May 8, 2018, which granted [Mbonu’s] request for adjustment of status with a 212h waiver. All parties waived appeal.” (*Id.* ¶ 7.) Thereafter, on May 16, 2018, Mbonu was released from ICE custody and he is no longer detained. (*Id.* ¶ 8.)

II. ANALYSIS

“A habeas corpus petition is moot when it no longer presents a case or controversy under Article III, § 2, of the Constitution.” *Aragon v. Shanks*, 144 F.3d 690, 691 (10th Cir. 1998) (citing *Spencer v. Kemna*, 523 U.S. 1, 7 (1998)). No case or controversy exists unless the petitioner has suffered an actual injury that can “be redressed by a favorable judicial decision.” *Spencer*, 523 U.S. at 7 (quoting *Lewis v. Cont'l Bank Corp.*, 494 U.S. 472, 477 (1990)). Here, Mbonu was released from ICE custody on May 16, 2018, because he had his immigration status adjusted and received a 212h waiver. (Killian Decl. II ¶¶ 7–8.) “Where, as here, a petitioner does not challenge the legality of his removal order but rather only seek[s] release from ICE custody pending his removal, courts have held that the petitioner’s deportation or release from custody moots the petition.” *Diawara v. Sec'y of DHS*, No. AW-09-2512, 2010 WL 4225562, at *2 (D. Md. Oct. 25, 2010) (citations omitted); *see Sayyah v. Farquharson*, 382 F.3d 20, 22 n.1 (1st Cir. 2004) (noting that release mooted alien’s habeas challenge to continued

detention); *Ishola v. Mukasey*, No. PJM-08-1363, 2008 WL 7697071, at *1 (D. Md. Aug. 12, 2008) (finding that petitioner's § 2241 petition challenging continued detention pending removal was moot because petitioner had been released from ICE custody pursuant to an order of supervision), *aff'd sub nom. Ishola v. Holder*, 326 F. App'x 254 (4th Cir. 2009); *Al-Salahi v. Loiselle*, No. 2:06CV102, 2006 WL 2709682, at *2 (E.D. Va. Sept. 19, 2006) (concluding same). Because Mbonu has already been released from ICE custody, his § 2241 Petition no longer presents a case or controversy that this Court can address. *See Spencer*, 523 U.S. at 7 (quoting *Lewis*, 494 U.S. at 477).

III. CONCLUSION

For these reasons, Respondent's Motion to Dismiss (ECF No. 13) will be granted, Mbonu's § 2241 Petition (ECF No. 5) will be dismissed as moot, and the action will be dismissed.

An appropriate Order will accompany this Memorandum Opinion.



/s/
HENRY E. HUDSON
SENIOR UNITED STATES DISTRICT JUDGE

Date: June 15, 2018
Richmond, Virginia